

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – ADMINISTRATIVE HEARINGS OFFICE AND
OFFICE OF CHIEF COUNSEL
AUGUST 3, 2021**

ITEM 4

SUBJECT

CONSIDERATION OF A PROPOSED ORDER DENYING PETITION FOR
RECONSIDERATION OF ORDER WR 2021-0001 (SIMONI ACL)

DISCUSSION

On October 18, 2019, an Assistant Deputy Director of the Board's Division of Water Rights (Division) issued an Administrative Civil Liability Complaint (ACL Complaint) to James V. Simoni (Petitioner), holder of water rights claims in Statement S000486, based on Petitioner's failure to timely file his annual supplemental statement of water diversion and use for 2018 diversions and use. The ACL Complaint stated that the total maximum potential liability for Petitioner's failure to file his supplemental statements of water diversion and use for 2018 at that time was \$54,000, based on an alleged violation for 108 days and the maximum penalty of \$500 per day per statement under Water Code section 1846. The ACL Complaint recommended the imposition of \$2,000 in administrative civil liability.

Petitioner requested a hearing. Petitioner filed supplemental statements of diversion and use under Statement S000486 for 2018 on June 9, 2020.

The Administrative Hearings Office (AHO) held a hearing on the ACL Complaint on July 24, 2020. On October 21, 2020, the AHO transmitted its proposed order to the Clerk of the Board.

On January 5, 2021, the State Water Board adopted the AHO's proposed order as [Order WR 2021-0001](#). Order WR 2021-0001 imposes a \$6,000 administrative civil liability against Petitioner for several reasons, including Petitioner's substantial delay in filing his supplemental statement, Petitioner's substantial inaccuracies or overstatements in the supplemental statement he eventually filed, and other evidence of Petitioner's non-compliance with water rights reporting requirements.

On February 4, 2021, Petitioner filed a petition for reconsideration of Order WR 2021-0001. Petitioner raises 14 arguments, which are discussed and addressed in the proposed order. For the reasons stated the proposed order, State Water Board staff concludes that Order WR 2021-0001 was appropriate and proper and that the petition should be denied.

POLICY ISSUE

Should the State Water Board adopt the proposed order?

FISCAL IMPACT

The activity is budgeted within existing resources, and no additional fiscal demands will result from approval of the proposed order.

REGIONAL BOARD IMPACT

None.

STAFF RECOMMENDATION

Staff recommends that the State Water Board adopt the proposed order.